

CLEARFIELD CITY COUNCIL MEETING MINUTES  
6:00 P.M. WORK SESSION  
February 9, 2016

PRESIDING:	Kent Bush	Mayor Pro Tem
PRESENT:	Keri Benson	Councilmember
	Nike Peterson	Councilmember
	Vern Phipps	Councilmember
	Bruce Young	Councilmember
EXCUSED:	Mark Shepherd	Mayor
STAFF PRESENT:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Stuart Williams	City Attorney
	Scott Hodge	Public Works Director
	Greg Krusi	Police Chief
	Eric Howes	Community Services Director
	Curtis Dickson	Community Services Deputy Dir.
	Spencer Brimley	Development Services Manager
	Summer Palmer	Administrative Services Director
	Rich Knapp	Finance Manager
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: There were no visitors.

Mayor Pro Tem Bush called the meeting to order at 6:00 p.m.

DISCUSSION ON THE GROUND LESSOR'S CONSENT AGREEMENT FOR PROPERTY LOCATED AT APPROXIMATELY 888 SOUTH UNIVERSITY PARK BOULEVARD

JJ Allen, Assistant City Manager, reminded the Council of the location of the building which housed AAA and Exeter. He continued a few years ago the owner of the building had negotiated a lease with the City and the CDRA for property to accommodate additional parking at the facility and he shared a visual illustration identifying the building and subsequent parking. He informed the Council that the building had been sold recently and the new owner, identified as 888 Associates, has used the building, along with several other facilities, as collateral against a line of credit. He stated it was a short term loan, approximately eighteen months, and was held by KeyBank. He continued KeyBank required as part of the loan, the Ground Lessor's Consent Agreement from the City and the CDRA. He clarified the agreement would allow KeyBank to become the lessee in the event 888 Associates defaulted on the loan and foreclosure action was necessary on the building. He reported he and Stuart Williams, City Attorney, had reviewed the agreement at length in addition to having discussions with both the building owner and KeyBank and stated neither one of them had any concerns with the agreement.

Stuart Williams, City Attorney, emphasized this agreement didn't change any terms of the original lease and should not be considered a new lease agreement. Mr. Allen clarified KeyBank did not have the authority to lien the City's property but would lien the leases. He asked if there were any questions.

Councilmember Phipps asked if 888 Associates defaulted and KeyBank ended up owning the building could it lease the property to another entity. Mr. Allen indicated protection regarding that was included within the original lease agreements.

#### DISCUSSION ON SR 193 LANDSCAPING

Eric Howes, Community Services Director, reminded the Council how the City had acquired landscaping funds to be used along the SR 193 expansion and reviewed how funds had been used in conjunction with Syracuse City and West Point City. He reported on some of the expenditures and stated there was a remaining balance of almost \$141,000 which could only be used for landscaping or landscaping maintenance along the SR 193 corridor. He announced those funds had been divided between the three municipalities based on the linear footage. He stated Clearfield received fifty-five percent which was equivalent to \$77,628.41 to either complete additional landscaping or set aside to be used for maintenance. He stated he had options to use the additional funds for the Council to consider.

Councilmember Benson asked if the proposed landscaping project could be completed by City staff. Mr. Howes responded although that appeared to be cheaper and current staff was capable of completing the work, it would take longer.

Mr. Howes shared a visual illustration of the triangle piece of land near the 200 South/Center Street connection to SR 193. He stated it would be very simple to complete the irrigation design and installation for turf with the addition of mulch on the east side near the fence line and use gravel on the west side for ease of maintenance.

Mr. Howes proposed using similar products such as mulch, gravel and larger rock to weave in the area along the 200 South trail on the north side of the soundwall. He mentioned there were some areas along the trail that would be wide enough to place benches and some plantings or boulders. He mentioned turf could be placed in that entire area which would require some maintenance but believed it would be too much green. Councilmember Peterson pointed out green turf wouldn't set an example relative to water conservation. Mr. Howes explained challenges associated with mowing anything on the south side of the soundwall due to the proximity of high speed traffic near the merge lane from 200 South to SR 193. He suggested the planting of some annual grasses in that area and mentioned anything planted would have to withstand the salt mixture used by UDOT in the winter.

Mr. Howes directed the Council to the illustration and identified the trail area from 200 South to H Street along SR 193 and mentioned that area was very visible to traffic. He pointed out the areas of access to water and stated the challenges with landscaping that area were specific to the proximity to the railroad and again salt mixture used by UDOT. Councilmember Young

suggested trees along the trail would be a nice amenity. Mr. Howes expressed agreement and commented there were several types of drought tolerant trees which could be used.

Mr. Howes reviewed cost estimates for the landscaping project with the Council and stated the irrigation system and sod installation would be completed by a contractor. He proposed staff install the mulch and rock along 200 South.

Councilmember Phipps mentioned the residents living along 200 South didn't appreciate the view of the soundwall which came with the SR 193 extension and suggested the City be cognizant of those residents when determining how to landscape the area and a discussion took place specific to trees, plantings and benches as an amenity.

Councilmember Benson inquired if there would be enough funds to complete all three presented projects. Mr. Howes responded there were funds appropriated specifically for landscaping the area; however, how that's accomplished or when would be up to the City Council.

Councilmember Bush asked if the City knew what Syracuse and West Point cities had planned for their portions of the project. Mr. Howes responded Syracuse intended to use its portion of funds toward equipment which could cut whatever grows along the south side of the soundwall. He indicated West Point would be using its funds for signage at 2000 West. He mentioned discussions had taken place regarding the consistency of landscaping along the soundwall.

Councilmember Benson expressed her opinion that landscaping along the trail should be the priority. Councilmember Bush believed the first priority should be landscaping the area near Center Street and SR 193. Mr. Howes clarified if the Council was in agreement to complete the landscaping in the area of Center Street and SR 193 as a first priority then extending along 200 South. A discussion took place regarding vacant private property on the south side of Center Street near the SR 193 intersection. Councilmember Young suggested the City find out how the current property owner intended to develop the property and coordinate the landscaping project with that information.

Mr. Howes summarized the landscaping projects would be completed in the following order:

- Center Street
- 200 South
- H Street trail area

#### DISCUSSION ON THE DAYCARE AT THE AQUATIC CENTER

Eric Howes, Community Services Director, reminded the Council of previous discussions last year related to expanding the daycare at the Aquatic Center. He mentioned the two goals directly related to the expansion were to minimize the subsidization and create more availability. He reported during the expansion process several challenges came to light and staff determined it was not feasible. He also explained why the center couldn't provide both full time and drop in daycare.

He announced staff then implemented a small pre-school named, Starfish Academy, as a pilot program at the beginning of the school year. He emphasized the same two goals applied to the pre-school that had been identified for the daycare and announced the first goal had already been recognized; it was fully self-supporting. He mentioned the pre-school didn't address any drop in daycare needs by patrons of the Aquatic Center. Mr. Howes reviewed specifics related to the pre-school:

- The drop in day care was available from 8 a.m. to 12 noon.
- Pre-school was available from 12:30 p.m. to 3:00 p.m.
- 3 and 4 year old children could attend.
- Monday & Wednesday only.
- Staffed by an instructor and an assistant.
- \$75 per month tuition.
- Enrollment fee was applicable when not a member of the Aquatic Center. He mentioned the first nine participants didn't have memberships and reported three of those participants had since purchased memberships.
- \$45 materials fee.

Mr. Howes reviewed revenues and expenses associated with operating the daycare. He stated supplemental programs for 3 and 4 year old children were offered prior to opening for the day. He stated those programs had also been successful and half of the participants were children already participating in the pre-school. He shared plans for expanding the pre-school program next year. A discussion took place regarding specifics related to the daycare.

Councilmember Young expressed concern the benefit of the daycare wasn't necessarily for the Aquatic Center's patrons. Mr. Howes emphasized the daycare had certainly filled a need while at the same time using the Center when patronage was at a low point and pointed out the space used for the program at the Aquatic Center would go unused if the program didn't exist. A discussion took place regarding the daycare/programs.

Mr. Howes requested direction from the Council on whether the daycare should continue being offered at the Aquatic Center and if it was comfortable with how staff had implemented something to fill a need. Adam Lenhard, City Manager, stated he wanted the Council to know the program was competing with the private sector. The Council discussed pricing and other options regarding drop in daycare.

Councilmember Peterson asked what the initial reason was behind expanding drop in daycare services. Mr. Howes responded it was to entice patronage during the middle of the day when the daycare had not previously been available; however, the drop in service during that time was still not being offered.

Councilmember Benson indicated she didn't have any objections with the pre-school because the number of children wasn't too large and it was implemented in the spirit of enticing Aquatic Center memberships. Mr. Howes believed another benefit was the small amount of recognized revenue from the program. He asked if the Council was in favor of continuing the program and requested direction.

Councilmember Peterson believed the pre-school was a service or benefit to the patrons of the Aquatic Center and a discussion followed. Councilmember Young pointed out the City had the building and it needed to be utilized. He continued if this was the best use for space during that time it should continue. Councilmember Phipps expressed his opinion the fitness facility was providing a need for its patrons and didn't believe it was competing with the private sector. The Council directed Mr. Howes to continue next year and requested he continue to evaluate.

**Councilmember Benson moved to adjourn the work session and reconvene in a City Council policy session at 6:58 p.m., seconded by Councilmember Peterson. All voting AYE.**

The work session reconvened at 7:39 p.m.

DISCUSSION ON AMENDMENTS TO TITLE 11, CHAPTER 1, SECTION 10 – PUBLIC NOTICING REQUIREMENTS AND CHAPTER 13 – PAWN AND SECONDHAND BUSINESSES

Spencer Brimley, Development Services Manager, explained staff had recognized some inconsistencies regarding the noticing process and emphasized at no point was the City in violation of either State Statute or City ordinance in processing subdivision applications. He displayed a visual table which identified public notice requirements. He explained the table reflected a 10 calendar day notice for a hearing specific to approval of subdivision preliminary plat. He continued staff had taken it to mean a "public hearing" during a meeting and announced State Statute didn't require a public hearing unless there was a street vacation or portion of a public right of way, or amending of the subdivision.

He requested direction from the Council to either amend the City's table to reflect the language as in the State Statute regarding a public meeting or continue with the City's current practice. He pointed out there was a difference between a public meeting and a public hearing and stated only the public hearing allowed for public comment. He suggested members of the Council express their thoughts and desires specific to the level of involvement when it came to the approval of subdivision plats.

JJ Allen, Assistant City Manager, suggested amending Title 12, the subdivision ordinance, making it very clear the City was requiring a public hearing if the Council desired to allow public hearings as part of the subdivision approval process.

Councilmember Peterson asked if the change would be more applicable to subdividing a home lot since there weren't significant areas left to subdivide within the City. Mr. Brimley responded it would be applicable to individual lots as well as small subdivisions. Mr. Allen pointed out it could also be taking several individual lots and creating a new parcel from several such as had been done with the Sandridge development located across State Street from City Hall.

Mayor Pro Tem Bush inquired why a public hearing would be necessary in the approval process. Councilmember Young believed it merely allowed for public input and stated he wouldn't be in favor of removing that language from the approval process. Mr. Brimley emphasized the public hearing wasn't a burden to staff but rather how the City would want the item presented. He

mentioned with the public hearing there were additional noticing requirements and explained how it would reduce costs for mailings. Nancy Dean, City Recorder, pointed out the fee could also be reduced if the City wasn't required to publish the notice in the newspaper which was approximately \$150.00.

Mr. Allen stated the City had been holding public hearings for preliminary subdivision plat and mentioned language wasn't clear specific to final subdivision plat approval and suggested maybe that language was all that needed to be clarified. He suggested the Council consider who the approval authority should be. Mayor Pro Tem Bush believed the subdivision plat was administrative which could be completed by staff or the Planning Commission. Mr. Allen clarified currently the preliminary plat needed approval from the Planning Commission as the land use authority and the City Council approved the final subdivision plat.

Adam Lenhard, City Manager, explained the history regarding subdivisions at the State level which, until just a few years ago, required a public hearing for preliminary plats and the City's ordinance had been drafted to meet that compliance. He continued previously there were many more required public hearings which were eliminated, removing politics from the land use process identifying some as an administrative process. He emphasized public clamor was not a valid reason to make a land use decision and a discussion took place regarding public hearings and the approval process.

Mayor Pro Tem Bush pointed out if required conditions were met as identified in the City's ordinance, the Council was obligated to approve the subdivision and questioned the point in allowing the public to comment. He stated it was probably a good idea to notify nearby residents to merely make them aware it was on the Council's agenda.

Councilmember Phipps believed it was important for residents to have input regarding changes to their neighborhood or community even if the Council was bound by law and was in favor of the public forum. Councilmember Peterson suggested changing some of the language in the notice being sent to residents to clearly state the expectations. Councilmember Young believed the notification to the public didn't have to reflect a public hearing, it could identify a public meeting. Ms. Dean suggested the mailed notice didn't have to reflect a public hearing; it could reflect a specific date by which residents could contact an individual at the City in order to provide additional information or ask questions prior to the consideration of a proposed subdivision. The Council responded it liked that suggestion. Mr. Brimley responded the notification sent from his office was similar with the exception of a final date.

Mr. Brimley suggested the land use table could reflect that staff was the recommending body to the Planning Commission and the Planning Commission was the approval body, the land use authority, on a preliminary subdivision plat and final plat. He stated the final plat could occur at the staff level between the engineer and the applicant to finalize things.

Mr. Lenhard inquired if the Mayor's signature would still need to appear on the plat. Mr. Allen responded the Planning Commission, as the land use authority, could recommend approval of the preliminary plat to the City Council, and the final plat could be an administrative function. A discussion took place regarding different options. Councilmember Phipps expressed his opinion

that if the City Council were to be involved in the approval process, it should be for the preliminary plat. Councilmember Bush didn't believe the County required the Mayor's signature on subdivision plats in order for them to be recorded.

Mr. Lenhard commented the amendment to the ordinance would need to proceed through the Planning Commission and staff could move forward in preparing the amendment. He clarified the Council was in agreement to not requiring a public hearing for a conditional use permit or preliminary subdivision plat but still preparing some sort of notice administratively directing residents to staff for comment or questions. He continued the notice would be a courtesy mailed notice and that general posting requirements wouldn't be needed. He mentioned the fee schedule would also need to be amended. Mr. Brimley responded staff would draft proposed amendments and bring it back to the Council for additional discussion and direction.

Spencer Brimley, Development Services Manager, shared the presentation which had been shared with the Planning Commission regarding pawn and secondhand businesses. He informed the Council that there were currently three pawn shops operating within Clearfield City and identified them on the illustration. He shared another illustration which identified the pawn shop locations but also non-depository lending establishments. He reminded the Council the ordinance had language which mitigated the clustering of these types of businesses in addition to the per capita limitation.

He reported staff had reviewed analysis and reports and from that information concluded there was concern nationwide relative to pawn shops. He stated staff also reviewed police data specific to Clearfield City and reported there was no direct correlation between crime and pawn shops; however, as staff reviewed those reports there was evidence which led to concerns from communities expressing regret they didn't begin mitigating current problems sooner.

Mr. Brimley reported some of the reports he read, which had already been shared with the Planning Commission, focused on transit corridors and the correlation to crime and staff believed there was a tie to the City's current conditions.

Adam Lenhard, City Manager, reminded the Council it had requested staff to study and evaluate the impact of pawn shops on the City. He informed the Council that the information had been presented to the Planning Commission in November 2015 and the issue was discussed. He stated another meeting with the Planning Commission took place in January to discuss concerns associated with pawn and secondhand businesses which were presented by the public from the 2014 public hearing associated with approval of Pawn Depot.

Mr. Brimley announced staff believed there was enough substantiated evidence that currently there might not be a problem; however, there was the potential for negative impacts in the future if no action was taken. He stated a public hearing took place during the Planning Commission's February meeting at which time it recommended to adopt additional regulations to the Council. He pointed out the basis for the recommendation:

- Staff looked at cities both within and outside of Utah and those inside the State allowed the use in industrial zones completely removing the use from the commercial zones.

- Varying degrees of distance requirements from different types of businesses and community locations.
- Additional correlation that pawn shops and non-depository lending establishments were similar in business practices and explained they both lent money at a certain rate of interest because the consumer couldn't obtain financing another way.
- The City's proposed amendment could be similar.

Mr. Brimley announced the proposed recommendation was to implement a distance requirement for any pawn and secondhand business which located within Clearfield City. He clarified the language would read; "no pawn or secondhand business can be located within one mile of another pawn or secondhand business and 880 feet from any non-depository lending establishment. He directed the Council to the map and pointed out the number of non-depository lending establishments currently exceeded the City's per capita regulation. He added the reports didn't substantiate that fact; rather, data reflected regulation should be based more on the clustering of non-retail establishments. He explained the formula used to determine the 880 feet distance requirement.

Councilmember Phipps asked if the City had defined pawn and secondhand business. Mr. Brimley responded the City's ordinance referred to State Statute for definition. Mr. Allen added the State also required those establishments to have a specific business registration.

Mr. Brimley announced the ordinance amendment would come before the Council as a recommendation from the Planning Commission on Tuesday, February 23, 2016. He indicated the language would be a new supplementary regulation within Chapter 13 of the City Code.

The meeting adjourned at 8:23 p.m.

**APPROVED AND ADOPTED**  
**This 12<sup>th</sup> day of April, 2016**

**/s/Mark R. Shepherd, Mayor**

**ATTEST:**

**/s/Nancy R. Dean, City Recorder**

I hereby certify that the foregoing represents a true, accurate, and complete record of the Clearfield City Council meeting held Tuesday, February 9, 2016.

/s/Nancy R. Dean, City Recorder